



# **PUBLIC EMPLOYMENT RELATIONS BOARD**

## **2001-2002 ANNUAL REPORT**

**October 15, 2002**



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### **Board Members**

RICHARD T. BAKER  
ALFRED K. WHITEHEAD  
THEODORE G. NEIMA

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## **Message from the Board**

The Public Employment Relations Board (PERB or Board) respectfully submits its 2001-2002 Annual Report to the Legislature. The report presents a summary of PERB's activities during the past fiscal year, including its newly enlarged mandate to facilitate improvement of labor relations for a broader range of public employers and employees in California.

PERB was established more than 25 years ago to administer the collective bargaining statutes covering public school employees and was later given jurisdiction over that process for employees of the University of California, the California State University, and the State of California. Immediately prior to the period of this report, jurisdiction was transferred from the courts to PERB for employee-employer relations in over 5,000 cities, counties and special districts.

As a result, PERB continues to establish an ever-developing body of case law by applying its unique expertise in labor relations. Our mission is guided by the premise that by adjudicating public sector labor relations in a fair manner, we can enhance the commitment to public service by public employers and employees.

The expansion of PERB's responsibilities is occurring during a period of reduced resources. The Members of the Board, with the support of the Board's executive staff, administrative law judges, lawyers, and employees, are working hard to ensure that the Board's statutory duties are carried out efficiently. These duties are executed in accordance with the highest standards of judicial conduct, and in a manner that demonstrates fair and balanced respect for the service of our public employees and employers.

Finally we note that, although PERB's jurisdiction has increased, the agency remains one of the State's smallest. While PERB administers the collective bargaining statutes covering nearly two million public employees and 7,000 employers, it does so with fewer than 37 dedicated staff members.

PERB is diligently endeavoring to meet the statutory demands of its newly increased jurisdiction. The Board notes, however, that any reductions to its budget could compromise the Board's ability to fulfill its statutory mandates. Only with the continuing support of the Governor and the Legislature can PERB continue to fulfill its critical role in strengthening public service through the proper administration of California's collective bargaining statutes.

To obtain additional information about PERB, its organization, functions and workload, please access the website at [www.perb.ca.gov](http://www.perb.ca.gov).

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Richard T. Baker  
Board Member

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Alfred K. Whitehead  
Board Member

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Theodore G. Neima  
Board Member

## Introduction of Board Members and Administrators

### Board Members

Appointed to the Board on March 29, 2000, **Richard T. Baker** was previously a self-employed labor relations consultant. From 1973 to 1995, he was the owner of the labor relations and consulting firm of Blanning and Baker Associates in Sacramento, San Francisco and Los Angeles. Baker earned a Bachelor of Arts Degree from California State University, Sacramento. His current term expires on December 31, 2003.

Appointed to the Board on January 1, 2001, **Alfred K. Whitehead** is General President Emeritus for the International Association of Fire Fighters (IAFF), where he served from 1988 to August 2000. In 1982, he was elected General Secretary/Treasurer of the IAFF and was re-elected through 1988. Mr. Whitehead served as a fire captain for the Los Angeles County Fire Department from 1954 to 1982. He was a member of the Los Angeles County Fire Fighters Local 1014 for more 20 years and was President for 12 years. Mr. Whitehead is a former member of the Los Angeles County Board of Retirement and served as an elected official to the National Conference on Public Employee Retirement Systems for more than 17 years. He attended East Los Angeles College, is a veteran of the United States Army, and also served as a United States Merchant Marine. His current term expires on December 31, 2005.

Appointed to the Board on August 7, 2001, **Theodore G. Neima** was formerly a Grand Lodge Representative for the International Association of Machinists and Aerospace Workers, AFL-CIO (IAM), a position he held since 1979. In 1993, he assumed responsibility in the thirteen Western United States for coordination of IAM cases before employment relations agencies. This included the presentation of representational and unfair labor practice cases before the National Labor Relations Board, the Federal Labor Relations Authority and state employment relations boards, including PERB. In 1983 and 1984, he served as the Special Assistant to the California Labor Commissioner. His current term expires on December 31, 2004.

Appointed to the Board in 1997, **Antonio C. Amador** served nearly seven years as Vice Chairman and Member of the United States Merit Systems Protection Board. He previously served as Chairman and Member of the Youthful Offender Parole Board; Deputy Director of the Employment Development Department, and as Director of the California Youth Authority. Mr. Amador also served as a Los Angeles Police Officer and was president of the Police Protective League from 1974 to 1976. Member Amador's term expired on December 31, 2001 and was extended until February 1, 2002.

### Administrators

Chief Administrative Law Judge **Ron Blubaugh** was first employed as legal counsel for the Educational Employment Relations Board [now PERB] on June 28, 1976; promoted to Administrative Law Judge at PERB in 1986; and was named Chief Administrative Law Judge July 21, 1994. He has taught labor-management relations courses for the University of California, Davis, Extension continuously from 1979 to the present. Ron received an A.B. in

economics from the University of Notre Dame, an M.S. in journalism from Northwestern University, and a J.D. from the University of the Pacific McGeorge School of Law

PERB General Counsel **Robert Thompson** began working for PERB in 1980 as a Legal Adviser to then Chair Harry Gluck. He has also worked as a Regional Attorney and was the Deputy General Counsel from 1988 until his appointment as General Counsel on December 7, 2001. He received a Bachelor of Sciences degree in Chemical Engineering from Northwestern University and is a member of the Executive Committee of the Labor and Employment Law Section of the State Bar of California.

**Anita I. Martinez** has been employed with PERB since 1976 and has served as San Francisco Regional Director since 1982. Her duties include supervision of the regional office, investigation of representation cases and unfair practice charges, and the conduct of settlement conferences, representation hearings, and elections. Before joining PERB in 1976, Anita worked for the National Labor Relations Board in San Francisco and the Agricultural Labor Relations Board in Sacramento and Salinas. A contributing author of the Matthew Bender treatise, California Public Sector Labor Relations, Anita has also addressed management and employee organization groups regarding labor relations issues. A San Francisco native, Anita received her B.A. from the University of San Francisco.

**Les Chisholm** has served as Sacramento Regional Director for PERB since 1987. His duties include investigation of representation cases and unfair practice charges, and conduct of settlement conferences and representation hearings and elections. Mr. Chisholm also has responsibilities in the areas of legislation, rulemaking and computer projects for the Board. He received an M.A. in political science from the University of Iowa.

**Eileen Potter** began working for PERB in 1993 as the Administrative Officer. Her state service includes service in the Governor's Office of Planning and Research (OPR) from 1979 through 1990 culminating in her appointment as the Assistant Chief of Administration. After leaving OPR, Eileen worked at the Office of Statewide Health Planning and Development and the Department of Health Services before coming to PERB as its Administrative Officer. She has a degree in Criminal Justice Administration with minors in Accounting and English from California State University, Sacramento.

## **I. OVERVIEW**

### **A. Statutory Authority and Jurisdiction**

The Public Employment Relations Board (PERB or Board) is a quasi-judicial agency created by the Legislature to oversee public sector collective bargaining in California. The Board administers four collective bargaining statutes, ensures their consistent implementation and application, and adjudicates disputes between the parties subject to them. The statutes administered by PERB prior to July 1, 2001 were: the Educational Employment Relations Act (EERA) of 1976 (Gov. Code sec. 3540, et seq.), authored by State Senator Albert S. Rodda, establishing collective bargaining in California's public schools (K-12) and community colleges; the State Employer-Employee Relations Act of 1978, known as the Ralph C. Dills Act (Dills Act) (Gov. Code sec. 3512, et seq.), establishing collective bargaining for State Government employees; and the Higher Education Employer-Employee Relations Act (HEERA) of 1979 (Gov. Code sec. 3560, et seq.), authored by Assemblyman Howard Berman, extending the same coverage to the California State University and University of California systems and Hastings College of Law.

As of July 1, 2001, PERB acquired jurisdiction over the Meyers-Milias-Brown Act (MMBA) of 1968, which established collective bargaining for California's municipal, county, and local special district employers and employees. This occurred as a result of Governor Gray Davis' signing of Senate Bill 739, authored by State Senator Hilda Solis (Statutes of 2000, Chapter 901). PERB's jurisdiction over the MMBA excludes peace officers, management employees and the City and County of Los Angeles.

In order to implement the MMBA, PERB promulgated new regulations after substantial involvement from the affected public at numerous open sessions. These regulations will be discussed in more detail later in this report.

With the passage of SB 739, almost two million public sector employees and their employers are included within the jurisdiction of the four Acts administered by PERB. Approximately 675,000 employees work for California's public education system from pre-kindergarten through and including the community college level. Approximately 125,000 employees work for the State of California. The University of California, California State University and the Hastings College of Law employ approximately 100,000. The remainder are employees of California's cities, counties and special districts.

### **B. PERB's Purpose and Duties**

#### **1. The Board**

The Board itself is composed of up to five members appointed by the Governor and subject to confirmation by the State Senate. Board members are appointed



to five-year terms, with the term of one member expiring at the end of each calendar year. In addition to the overall responsibility for administering the four statutes, the Board itself acts as an appellate body to hear challenges to proposed decisions that are issued by the staff of the Board. Decisions of the Board itself may be appealed under certain circumstances, and then primarily to the state appellate courts. The Board, through its actions and those of its staff, is empowered to:

- Conduct secret ballot elections to determine whether or not employees wish to have an employee organization exclusively represent them in their labor relations with their employer;
- Prevent and remedy unfair labor practices, whether committed by employers or employee organizations;
- Deal with impasses that may arise between employers and employee organizations in their labor relations in accordance with statutorily established procedures;
- Ensure that the public receives accurate information and has the opportunity to register its opinions regarding the subjects of negotiations between public sector employers and employee organizations;
- Interpret and protect the rights and responsibilities of employers, employees and employee organizations under the Acts;
- Bring action in a court of competent jurisdiction to enforce PERB's decisions and rulings;
- Conduct research and training programs related to public sector employer-employee relations;
- Take such other action as the Board deems necessary to effectuate the purposes of the Acts that it administers.

During fiscal year 2001-2002, the Board issued 67 decisions. A summary of the Board's 2001-2002 decisions is included in the Appendix IV-E.

## **2. Major PERB Functions**

The major functions of PERB involve: (1) the administration of the statutory process through which public employees freely select employee organizations to represent them in their labor relations with their employer; (2) the investigation and adjudication of unfair practice charges; and (3) the legal functions performed by the office of the General Counsel.

**The representation process** normally begins when a petition is filed by an employee organization to represent employees in classifications which reflect an internal and occupational community of interest. If only one employee organization petition is filed and the parties agree on the description of the bargaining unit, the employer may either grant voluntary recognition or ask for a representation election. If more than one employee organization is competing for representational rights of the same bargaining unit, an election is mandatory.

If either the employer or an employee organization disputes the appropriateness of the proposed bargaining unit, a Board agent convenes a settlement conference to assist the parties in resolving the dispute. If the dispute cannot be settled voluntarily, a Board agent conducts a formal investigation and/or hearing and issues a written determination which sets forth the appropriate bargaining unit, or modification of that unit, based upon application of statutory unit determination criteria and appropriate case law to the facts obtained in the investigation or hearing. Once an initial bargaining unit has been established, PERB conducts a representation election in cases in which the employer has not granted voluntary recognition to an employee organization. PERB also conducts decertification elections when a rival employee organization or group of employees obtains sufficient signatures to call for an election to remove the incumbent organization. The choice of "No Representation" appears on the ballot in every representation election.

Representation Section staff also assist parties in reaching negotiated agreements through the mediation process provided in EERA, HEERA and Dills Act, and through the fact-finding process provided under EERA and HEERA. If the parties are unable to reach an agreement during negotiations, either party may declare an impasse. At that time, a Board agent contacts both parties to determine if they have reached a point in their negotiations at which their differences are so substantial or prolonged that further meetings without the assistance of a mediator would be futile. Once PERB has determined that an impasse exists, the State Mediation and Conciliation Service of the Department of Industrial Relations is contacted to assign a mediator.

In the event settlement is not reached during mediation, either party, under EERA and HEERA, may request the implementation of statutory fact-finding procedures. PERB provides lists of neutral factfinders who make findings of fact and advisory recommendations to the parties concerning terms of settlement.

A summary of PERB's representation activity is included later in this report.

**The investigation and adjudication of unfair practice charges** is another major function performed by PERB. An unfair practice charge may be filed with PERB by an employer, employee organization, or employee, alleging that an employer or employee organization has committed an act which is unlawful

under one of the Acts administered by PERB. Examples of unlawful employer conduct are: refusing to negotiate in good faith with an employee organization; disciplining or threatening employees for participating in union activities; or promising benefits to employees if they refuse to participate in union activity. Examples of unlawful employee organization conduct are: threatening employees if they refuse to join the union; disciplining a member for filing an unfair practice charge against the union; or failing to represent bargaining unit members fairly in their employment relationship with the employer.

An unfair practice charge filed with PERB is evaluated by staff to determine whether a prima facie case of an unlawful action has been established. A charging party establishes a prima facie case by alleging sufficient facts to permit a reasonable inference that a violation of the EERA, Dills Act, HEERA or MMBA has occurred. If it is determined that the charge fails to state a prima facie case, a Board agent issues a warning letter notifying the charging party of the deficiencies of the charge. The charging party is afforded time to either amend or withdraw its charge. If the charge is neither amended nor withdrawn, the Board agent dismisses it. The charging party may then appeal the dismissal to the Board itself.

If the Board agent determines that a charge, in whole or in part, states a prima facie case of a violation, a formal complaint is issued. The respondent is then given an opportunity to file an answer to the complaint.

Once a complaint has been issued, an Administrative Law Judge (ALJ) or other PERB agent is assigned to the case and calls the parties together for an informal settlement conference, usually within 30 days of the date of the complaint. If settlement is not reached, a formal hearing before a PERB ALJ is scheduled, normally within 60 days of the date of the informal conference. Following this adjudicatory proceeding, the ALJ prepares and issues a proposed decision. A party to the case may then file an appeal of the proposed decision to the Board itself. The Board itself may affirm, modify, reverse or remand the proposed decision.

Proposed decisions which are not appealed to the Board itself are binding upon the parties to the case but may not be cited as precedent in other cases before the Board.

Decisions of the Board itself are both binding on the parties to a particular case and precedential. A digest of PERB decisions is available upon request.

The **Appeals Office**, under direction of the Board itself, ensures that all appellate filings comply with Board regulations. It maintains case files, issues decisions rendered and prepares administrative records filed with California appellate courts. This office is the main contact with parties and their representatives while cases are pending before the Board itself.

**The legal representation** function of the Office of the General Counsel includes:

- Defending final Board decisions or orders in unfair practice cases when parties seek review of those decisions in state appellate courts;
- Seeking enforcement when a party refuses to comply with a final Board decision, order or ruling, or with a subpoena issued by PERB;
- Seeking appropriate interim injunctive relief against those responsible for certain alleged unfair practices;
- Defending the Board against attempts to stay its activities, such as complaints seeking to enjoin PERB hearings or elections; and
- Submitting amicus curiae briefs and other motions, and appearing in cases in which the Board has a special interest or in cases affecting the jurisdiction of the Board.

A summary of the litigation activity of the Office of the General Counsel is included later in this report.

### **3. Other PERB Functions and Activities**

#### **Retention of Collective Bargaining Agreements**

PERB regulations require that employers under EERA, HEERA and the Dills Act file with PERB a copy of all collective bargaining agreements reached within 60 days of the date of execution. These contracts are maintained as public records in PERB's regional offices.

#### **Financial Records**

The law requires recognized or certified employee organizations to file with PERB an annual financial report of income and expenditures. Organizations which have negotiated a fair share fee arrangement for bargaining unit members have additional filing requirements.

Complaints alleging noncompliance with these requirements may be filed with PERB, which may take action to bring the organization into compliance.

### **Advisory Committee**

The Advisory Committee to PERB consists of approximately 100 people from throughout California representing employers, employee organizations, law firms, negotiators, professional consultants, the public and scholars. The Advisory Committee was originally established many years ago to assist the Board in its regulation review process. The Advisory Committee assists the Board in its search for ways to improve PERB's effectiveness and efficiency in working with public sector employers and employee organizations to promote the resolution of disputes and contribute to greater stability in employer-employee relations.

### **Conference Sponsorship**

The Center for Collaborative Solutions (CCS), formerly known as the California Foundation for Improvement of Employer-Employee Relations (CFIER), is a non-profit foundation dedicated to assisting public education employers and employees in their efforts to improve working relationships, solve problems and provide leadership in the education community. CFIER began in 1987 as a project within PERB. Each year CCS presents a conference on "Working Together." PERB is joined by the Institute of Industrial Relations at the University of California, Berkeley; the California State Mediation and Conciliation Service; and the Federal Mediation and Conciliation Service in sponsoring the annual conference. The 2001 CCS conference was held in October 2001 in Burlingame, California.

### **Information Requests**

As California's expert administrative agency in the area of public sector collective bargaining, PERB is consulted by similar agencies from other states concerning its policies, regulations and formal decisions. Information requests from the Legislature and the general public are also received and processed. Additionally, PERB cooperates with the Institute of Industrial Relations of the University of California, Berkeley, in the dissemination of information concerning PERB policies and actions to interested parties throughout the State.

## **C. Support Functions and Board Operations**

The **Administration Section** provides support services to PERB, such as business services, personnel, accounting, information technology, mail and duplicating. This section also engages in budget development and maintains liaison with the Department of Finance and other agencies within State Government.

Throughout the past few years, PERB has embraced automation as a means of increasing productivity, allowing it to handle increased workload with reduced staffing. PERB has also moved forward with the full development of its website, allowing those who do business with PERB the ability to access PERB Decisions, on-line forms and access the Board's rules, regulations and statutes.

## **II. LEGISLATION AND RULEMAKING**

### **A. Legislative History of PERB**

The Public Employment Relations Board's (PERB or Board) present involvement in California public sector labor relations can best be seen as a result of an evolutionary legislative process. Highlights are presented herein.

#### The George Brown Act

The George Brown Act of 1960 established a process to determine wage levels for public employees, including State employees. The Act involved the Legislature, the State Personnel Board and non-exclusive employee groups. Each year the State Personnel Board would conduct a study of employee wages and benefits. Using this information, along with input from the employee groups, Legislature and the Governor, a budget item would result reflecting any salary increase for State employees. The Brown Act required the State, as management, to meet and confer with non-exclusive employee organizations to hear their salary requests.

#### The Winton Act

The Winton Act of 1964 withdrew public school and community college employees from the George Brown Act. It granted school employees the right to form, join and participate in the activities of employee organizations and the right to refrain from such activities. It provided for meet and confer but not for exclusive representation. The Winton Act continued plural representation for classified employees and created certificated employee councils for certificated employees. The Winton Act did not provide for an administrative agency. Enforcement of the law was through the courts.

#### Meyers-Milias-Brown Act (MMBA)

The MMBA originally was enacted in 1968 when Senator George Moscone authored SB 1228. SB 1228 was approved by the Legislature on August 1, 1968 as Chapter 1390 of the Statutes of 1968 and was signed by former Governor Ronald Reagan on August 21, 1968. At the time it was written, the law withdrew all employees of local government from the George Brown Act. The MMBA authorized local governments to adopt rules and regulations to provide for administering employer-employee relations. It did not establish exclusive representation by the statute but permitted local government to establish exclusivity through local ordinance. It permitted negotiations of agency shop since 1981. Unfair practice provisions were not in the text of the statute. Local government entities are permitted to adopt reasonable rules establishing election procedures. The MMBA did not exclude management, supervisory or confidential employees.

### Unsuccessful Legislation Leading to EERA

In 1972, Assembly Resolution No. 51 established the Assembly Advisory Council on Public Employee Relations. This blue ribbon panel recommended the enactment of a comprehensive public employment bargaining law for all public employees in California. Several legislative attempts were made to enact this panel's recommendations, each attempt failing to become law.

In 1973, Assembly Speaker Bob Moretti introduced AB 1243, which failed to receive the votes necessary to secure passage. Senator George Moscone introduced SB 400 in 1974, which did not reach the Assembly floor. Senate Bill 1857, authored by Senator Albert Rodda, was debated. Two other unsuccessful efforts were made in 1975, SB 275 (Dills) and AB 119 (Bill Greene and Julian Dixon). Despite these failures, momentum was building which finally led to the enactment of EERA in 1976.

### The Educational Employment Relations Act (EERA)

On January 6, 1975, Senator Albert S. Rodda introduced SB 160, the EERA. Several amendments were made by the author in an attempt to achieve a consensus bill that both employers and employee organizations would support. This measure passed the Legislature on September 8, 1975, and was signed into law as Chapter 961 (Statutes of 1975) by Governor Edmund G. Brown Jr. on September 22, 1975.

The "meet and confer" provision of the Winton Act was strictly limited. Agreements reached under this process could not be incorporated into a written contract, were not binding and could be modified unilaterally by the public school employer.

EERA created the Educational Employment Relations Board (EERB). The EERB was the quasi-judicial agency created to implement, legislate, and settle disputes in, collective negotiations for California's public school employers and employees. The three-member Board assumed its responsibilities in April 1976. The new labor board was given the authority to:

- Determine appropriate bargaining units;
- Conduct representation elections;
- Decide whether or not disputed subjects fall within the scope of representation;
- Appoint fact finders and mediators in impasse situations;
- Investigate and resolve unfair practice charges;
- Bring actions in court to enforce its decisions.



### State Employer-Employee Relations Act (SEERA or Dills Act)

Senate Bill 839, authored by Senator Ralph C. Dills, was passed by the Legislature on September 19, 1977 as Chapter 1159 of the Statutes of 1977. SEERA was signed into law on September 30, 1977 by Governor Brown and became effective July 1, 1978. SEERA extended EERB coverage to State civil service employees. It also renamed EERB as the Public Employment Relations Board (PERB). The powers that had been given to the EERB were conferred on the new PERB.

SEERA contained additional provisions for the exclusive representation by employee organizations, the filing of unfair practice charges and the use of mediation for impasse resolution. SEERA also required the State employer to "meet and confer in good faith." Memoranda of Understandings supersede specified code sections under the provisions of SEERA.

### Higher Education Employer-Employee Relations Act (HEERA)

Assemblyman Howard Berman authored AB 1091, the HEERA, which became law on September 13, 1978. HEERA took effect in July 1979. It covers all employees of the University of California, the California State University and College System, and the Hastings College of Law.

HEERA extends authority similar to that exercised by the Board under EERA and SEERA.

### MMBA Amendments

In 2001, PERB assumed responsibility for administering the MMBA. Thus, nearly 30 years after it first was suggested that a labor board be created to supervise collective bargaining for all public employees in California, that idea has become reality.

PERB was given jurisdiction over the MMBA through the enactment of SB 739 by Senator Hilda L. Solis. Under the revised MMBA, PERB has jurisdiction over labor relations at all levels of local government except for the City of Los Angeles, the County of Los Angeles and all local police departments.

## **B. Rulemaking**

### Senate Bill 739 (Statutes of 2000, Chapter 901)

In November 2000, PERB staff began meeting with interested parties to develop a comprehensive set of regulatory changes to support PERB's assumption of jurisdiction over the Meyers-Milias-Brown Act on July 1, 2001. Following a series of drafts and public workshops a final draft was prepared. On May 28, 2001, the Notice of Proposed Rulemaking was filed with OAL to begin the formal rulemaking process. The proposed regulations were also filed with OAL as emergency regulations and took effect on

July 1, 2001. The Board itself then received written comments and held a public hearing on August 9, 2001. On August 31, 2001, the Board issued a Notice of Proposed Changes to the initial proposed rules. On September 20, 2001, the Board voted unanimously to adopt the proposed amendments and new regulations as submitted. The regulatory changes received final approval from OAL on December 24, 2001.

#### Other Rulemaking Activity

A regulations package containing non-substantive and clarifying changes was submitted to OAL under the authority of Title 1, California Code of Regulations, section 100 during the fiscal year. The package was submitted for adoption to OAL on April 5, 2002 and was approved on May 20, 2002.

### **III. CASE DISPOSITIONS**

#### **A. Board Decisions**

During the fiscal year, the Public Employment Relations Board (PERB or Board) issued 67 decisions, including consideration of 23 requests for injunctive relief.

With the passage of SB 739, the Board is experiencing a significant increase in the number of cases filed and appealed to the Board. That increase is expected to continue in the coming fiscal year, including a number of cases involving legal questions of first impression as the Board fulfills its responsibility to administer the Meyers-Milias-Brown Act (MMBA).

#### **B. Litigation**

There were a total of 11 new litigation cases opened during 2001-2002, which are summarized in Appendix IV-F. Seven cases closed during the fiscal year, each with a result favorable to PERB.<sup>1</sup>

#### **C. Administrative Adjudication**

During the fiscal year, the Division of Administrative Law conducted unfair practice hearings throughout the state and issued proposed decisions. Proposed decisions become final if not appealed to the Board for review and over the year only 41 percent of the proposed decisions issued by the ALJ staff were appealed to the Board. The low appeal rate reflects favorably on the quality of the work by the division and has the advantage of limiting expansion of the workload on the Board.

The workload of the Division picked up considerably after January 1 when the addition of the Meyers-Milias-Brown Act to PERB's jurisdiction resulted in an increase in the number of unfair practice hearings. In 2001-02, the Division had 132 days of hearing, 64 percent of which were conducted after January 1. The ALJ staff wrote 43 proposed decisions, sixty percent of them after January 1. The early indications are that this increased workload has continued into the 2002-2003 fiscal year.

The rate of cases scheduled for hearing that actually go to hearing was 51 percent in the 2001-2002 fiscal year. This is the highest hearing yield rate in the last five years and is attributable entirely to the addition of the MMBA to PERB's jurisdiction. In the first year of administrative adjudication of the MMBA, 65 percent of the cases set for hearing under that act actually went to hearing. Such a hearing rate is not surprising because there is no body of PERB law interpreting the MMBA in existence for

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<sup>1</sup> Two of these cases were requests for enforcement and did not result in a court appearance.

guidance of the parties. Although the hearing rate of MMBA cases can be expected to decline at some point in the future, it will lead to an increased hearing workload in the meantime.

#### **D. Representation Activity**

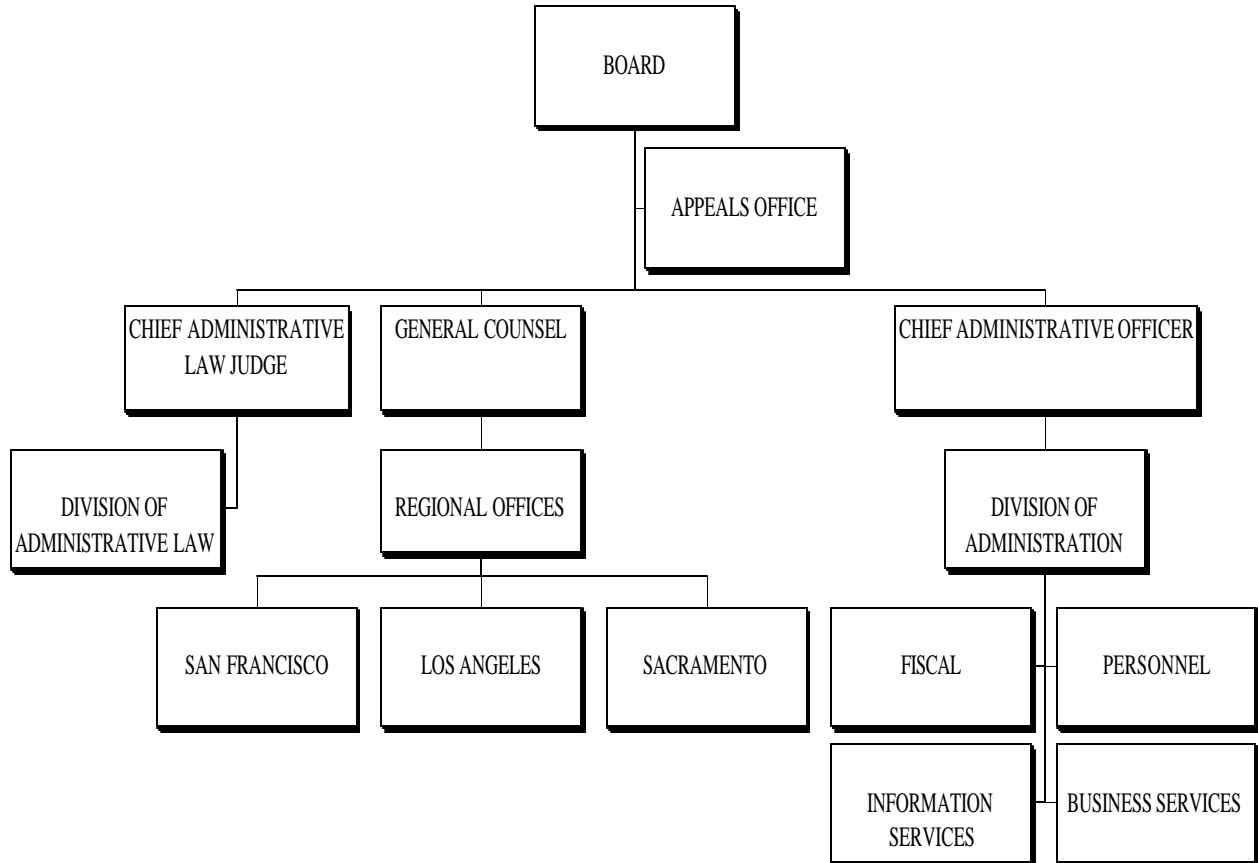
Election activity for the year was significantly lower than in the prior year (28 conducted compared to 63), but the number of elections was almost exactly the same as PERB averaged over the preceding three-year period (29). The greatest number of elections (12) occurred as a result of initial representation efforts, all under the Educational Employment Relations Act (EERA) and three involving charter schools. PERB conducted nine organizational security (or fair share fee) rescission elections, two of which succeeded in rescinding the fee requirement. Eight of the rescission efforts were held under EERA and one under the Meyers-Milius-Brown Act. There were also six decertification elections conducted under EERA.

#### **E. Dispute Resolutions and Settlements**

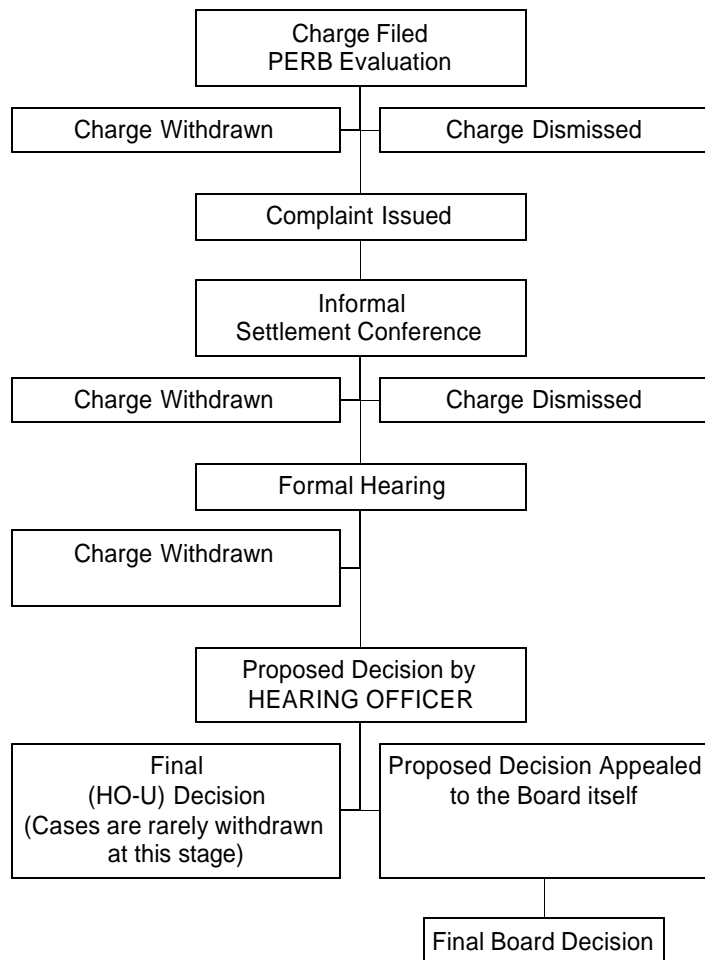
PERB continued to strongly emphasize voluntary resolution of disputes. This emphasis begins with the first step of the unfair practice charge process, the investigation. During this step 184 cases were withdrawn, many through informal resolution by the parties. For the 240 cases where the investigation resulted in issuance of a complaint, staff from the General Counsel's office and the Office of Administrative Law conducted 219 days of settlement conferences. These efforts resulted in voluntary settlements in 127 of these cases, or nearly 60 percent. PERB believes that such settlements are the most efficient way of resolving disputes as well as providing an opportunity for the parties to improve their relationship. Accordingly, it will continue to work with the parties to resolve disputes through mediation and looks forward to extending this commitment to the MMBA parties recently added to its jurisdiction.

## **IV. APPENDICES**

**PUBLIC EMPLOYMENT RELATIONS BOARD  
Organizational Chart**



**UNFAIR PRACTICE CHARGE  
FLOW CHART**



## APPENDIX IV-C

### 2001-2002 REPRESENTATION CASE ACTIVITY

#### I. Case Filings and Disposition Summary

Case Type	Filed	Closed
Request for Recognition	23	21
Severance	2	5
Petition for Certification	0	0
Decertification	12	14
Amended Certification	5	5
Unit Modification	56	52
Organizational Security	7	12
Petition for Board Review (MMBA)	7	3
Financial Statement	1	1
Public Notice	0	3
Arbitration	2	2
Mediation	208	111
Factfinding	36	29
Compliance	14	20
<b>Totals</b>	<b>373</b>	<b>278</b>

#### II. Prior Year Workload Comparison: Cases Filed

	1998-1999	1999-2000	2000-2001	2001-2002	4-Year Average
1 <sup>st</sup> Half	120	149	183	137	147
2 <sup>nd</sup> Half	219	213	235	236	226
Fiscal Year	339	362	418	373	373

#### III. Elections Conducted

Decertification	6
Organizational Security Approval	0
Organizational Security Rescission	9
Representation	12
Severance	0
Unit Modification	1
<b>Total</b>	<b>28</b>



## *Elections Conducted: 2001 - 2002*

<i>Case No.</i>	<i>Employer</i>	<i>Unit Type</i>	<i>Winner</i>	<i>Unit</i>
<i>Decertification</i>				
LA-DP-00339-E	PLEASANT VALLEY SD	Operations, Support Services	Pending	77
SF-DP-00246-E	BRENTWOOD UNION SCHOOL DISTRICT	Wall Certificated	No Representation	289
SF-DP-00247-E	PETALUMA CITY ESD/JtUnHSD	Adult School	Petaluma Fed. of Teachers, Local 1881	29
SF-DP-00248-E	SAN RAMON VALLEY USD	Operations, Support Services	SEIU Local 790	154
SF-DP-00249-E	BERKELEY USD	Operations, Support Services	IUOE Local 39	154
SF-DP-00252-E	BERKELEY USD	Instructional Aides	Council of Classified Employees	246
<i>Organizational Security - Rescission</i>				
LA-OS-00206-E	TUSTIN USD	Wall Classified	Not rescinded	602
LA-OS-00207-M	SUNLINE TRANSIT AGENCY	Operations, Support Services	Not rescinded	188
LA-OS-00208-E	ALLAN HA NCOCK JtCCD	Wall Classified	Not rescinded	183
LA-OS-00210-E	MONTECITO UnESD	Wall Certificated	Not rescinded	30
LA-OS-00211-E	PASO ROBLES USD	Wall Certificated	Not rescinded	391
SA-OS-00130-E	YUBA COUNTY OFFICE OF EDUCATION	Wall Classified	Rescinded	91
SA-OS-00131-E	DAVIS JtUSD	Wall Classified	Not rescinded	350
SA-OS-00132-E	PLACER HILLS UnESD	Wall Classified	Rescinded	59
SA-OS-00133-E	EASTERN SIERRA USD	Wall Classified	Not Rescinded	52
<i>Representation</i>				
LA-RR-01069-E	COPPER MOUNTAIN CCD	Wall Classified	CSEA-Chapter 800	36
LA-RR-01073-E	SAN BERNARDINO CITY USD	Certificated Substitutes	San Bernardino Assn of Substitute Teachers	298

## APPENDIX IV-C (continued)

<i>Case No.</i>	<i>Employer</i>	<i>Unit Type</i>	<i>Winner</i>	<i>Unit</i>
<i>Representation</i>				
LA-RR-01075-E	GRIZZLY CHALLENGE CHARTER SCHOOL	Wall Certificated	Grizzly Education Association	6
LA-RR-01077-E	KERN HIGH SCHOOL DISTRICT	Classified Supervisors	LIU Local 220	17
LA-RR-01078-E	GUAJOME PARK ACADEMY	Wall Certificated	No Representation	48
SA-RR-01028-E	HORIZON INSTRUCTIONAL SYSTEMS	Office Technical/Business Services	California School Employees Association	81
SA-RR-01029-E	MADERA USD	Adult School	Madera Adult Educators CFT/AFT	39
SA-RR-01030-E	PIONEER UnESD-Kings	Wall Classified	California School Employees Association	78
SA-RR-01033-E	BIG OAK FLAT-GROVELAND USD	Wall Classified	California Teachers Assoc.	31
SF-RR-00853-E	SOUTH SAN FRANCISCO USD	Adult School	So SF Adult Educators	39
SF-RR-00855-E	PAJARO VALLEY USD	Certificated Substitutes	South County Assn. of Substitute Teachers	143
SF-RR-00859-E	LIVE OAK CHARTER	Wall Certificated	Live Oak Teachers Association	3
<i>Unit Modification</i>				
SA-UM-00690-E	TURLOCK JOINT ELEMENTARY SCHOOL DISTRICT	Wall Certificated	Yes	15
<i>Total</i>	28			

## 2001-2002 UNFAIR PRACTICE CHARGE STATISTICS

### I. Unfair Practice Charges Filed by Office

	<b>1<sup>st</sup> Half</b>	<b>2<sup>nd</sup> Half</b>	<b>Total</b>
Sacramento	93	148	241
San Francisco	88	92	180
Los Angeles	<u>340</u>	<u>174</u>	<u>514</u>
<b>Total</b>	521	414	935

### II. Unfair Practice Charge Dispositions by Office

	<b>Charge Withdrawal</b>	<b>Charge Dismissed</b>	<b>Complaint Issued</b>	<b>Total</b>
Sacramento	52	46	77	175
San Francisco	49	40	59	148
Los Angeles	<u>83</u>	<u>268</u>	<u>104</u>	<u>455</u>
<b>Total</b>	184	354	240	778

### III. Prior Year Workload Comparison: Charges Filed

	<b>1998/1999</b>	<b>1999/2000</b>	<b>2000/2001</b>	<b>2001/2002</b>	<b>4-Year Average</b>
1 <sup>st</sup> Half	290	247	211	521	317
2 <sup>nd</sup> Half	<u>314</u>	<u>263</u>	<u>250</u>	<u>414</u>	<u>310</u>
<b>Total</b>	604	510	461	935	627

**APPENDIX IV-E****2001-2002 BOARD DECISIONS**

<b><u>DECISION NO.</u></b>	<b><u>CASE NAME</u></b>	<b><u>DESCRIPTION</u></b>	<b><u>DISPOSITION</u></b>
1454-E	Association of Educational Office and Technical Employees, NEA v. Hayward Unified School District	The Board granted the charging party's request to withdraw its appeal of a partial dismissal.	Granted charging party's request to withdraw its appeal of a partial dismissal. Granting this request is in the best interests of the parties and is consistent with the purposes of the EERA.
1455-E	American Federation of Teachers Guild, California Federation of Teachers, Local 1931 v. San Diego Community College District	The Board dismissed the unfair practice charge, which alleged that the employer violated the EERA by prohibiting the distribution of certain materials through its internal mail system.	Dismissed. There is no unilateral change when an employer enforces a contractual provision, albeit for the first time.
1456-E	Mario Mercado and Candice Bloch v. Hart District Teachers Association	The Board dismissed the unfair practice charges and complaints, which alleged that the employee organization breached its duty of fair representation when it settled grievances filed on behalf of the charging parties without notice to them and without their consent, and when it failed to provide post-settlement information to the charging parties.	Dismissed. There was no evidence that the union's conduct lacked a rational basis, was arbitrary or based upon invidious discrimination.

**2001-2002 BOARD DECISIONS**

<b><u>DECISION NO.</u></b>	<b><u>CASE NAME</u></b>	<b><u>DESCRIPTION</u></b>	<b><u>DISPOSITION</u></b>
1457-E	Jeffry Peter LaMarca v. Capistrano Unified Education Association	The Board dismissed the unfair practice charge, which alleged that the employee organization violated the EERA with regard to its handling of union elections in which the charging party was a candidate.	Dismissed. The charge fails to state a prima facie case of a violation of EERA because it lacks an explanation of how the union's internal handling of election procedures had an impact on employee-employer relations.
1458-E	George Raymond Marsh, Jr., v. Sacramento City Teachers Association	The Board dismissed the unfair practice charge, which alleged that the employee organization breached its duty of fair representation by failing to properly represent the charging party in a grievance against the employer.	Dismissed. The charge fails to provide information demonstrating that the union's actions were without a rational basis or devoid of honest judgment; also, PERB lacks the authority to enforce collective bargaining agreements.

## 2001-2002 BOARD DECISIONS

<u>DECISION NO.</u>	<u>CASE NAME</u>	<u>DESCRIPTION</u>	<u>DISPOSITION</u>
1459-S	Carlos A. Veltruski v. State of California	The Board denied the charging party's motion to amend the unfair practice charge and complaint.	Motion to amend the unfair practice charge and complaint denied. Charging party has not alleged with a clear and concise statement in the motion that certain persons were acting for the employer, as they were merely employees defending a lawsuit brought by the charging party; there is no equitable tolling of the statute of limitations; and an employer has no obligation to create for a prospective applicant a particular position.
1460-E	George R. Gerber, Jr., v. California School Employees Association, Chapter 258	The Board dismissed the unfair practice charge, which alleged that the employee organization violated the EERA by unlawfully collecting agency fees.	Dismissed. Charging party failed to demonstrate that the union failed to request a prompt hearing; that the union violated PERB Regulation 32994(5); that the union failed to provide a copy of the auditor's report; that the union caused or attempted to cause the employer to interfere with protected rights; or that the union's conduct violated the duty of fair representation.

**2001-2002 BOARD DECISIONS**

<b><u>DECISION NO.</u></b>	<b><u>CASE NAME</u></b>	<b><u>DESCRIPTION</u></b>	<b><u>DISPOSITION</u></b>
1461-E	George Raymond Marsh, Jr., v. Sacramento City Unified School District	The Board dismissed the unfair practice charge, which alleged that the employer violated the EERA by discriminating against the employee because of his exercise of protected rights.	Dismissed. Charging party failed to meet his burden of demonstrating that portions of the charge were timely filed; also, the charging party failed to demonstrate any connection between the employer's conduct and his filing of a grievance.
1462-E	Tim Lee, et al. v. Peralta Community College District	The Board dismissed the unfair practice charge, which alleged that the employer discriminated against an employee in violation of section 3543.5(a) of the EERA by issuing him negative evaluations, by terminating his employment, and by refusing to hire him for a new position.	Dismissed. A portion of the charge was untimely; a portion was dismissed and deferred to arbitration; and a portion was dismissed for failure to state a prima facie case.

**2001-2002 BOARD DECISIONS**

<b><u>DECISION NO.</u></b>	<b><u>CASE NAME</u></b>	<b><u>DESCRIPTION</u></b>	<b><u>DISPOSITION</u></b>
1463-E	Holmgeir K. Brynjolfsson v. Teamsters Local 572	The Board dismissed the unfair practice charge, which alleged that the union violated the duty of fair representation.	Dismissed. The union's decision not to pursue the employee's grievance to arbitration based on advice of legal counsel did not demonstrate that the union acted in an arbitrary, discriminatory or bad faith manner.
1464-E	Oakland Unified School District and International Association of Machinists District Lodge No. 190 and Oakland Education Association, CTA/NEA	The Board denied the severance petition, which sought to establish a separate unit of full-time and regular part-time psychologists.	Denied. The facts did not support a finding that the psychologists have a community of interest that is separate and distinct from that shared with teachers and other certificated employees.
1465-E	Howard O. Watts v. Los Angeles Unified School District	The Board dismissed the public notice complaint. The complaint alleged that the employer violated the EERA when it changed its policy regarding the time limit for public comment at Board of Education meetings.	Dismissed. The employer had not changed its policy since at least 1988, and the policy was in conformance with PERB precedent, which has consistently held that three minutes is an adequate period of time to address initial proposals.



**2001-2002 BOARD DECISIONS**

<b><u>DECISION NO.</u></b>	<b><u>CASE NAME</u></b>	<b><u>DESCRIPTION</u></b>	<b><u>DISPOSITION</u></b>
1456a	Mario Mercado and Candice Bloch v. Hart District Teachers Association	The Board denied the request for reconsideration of Decision No. 1456.	Denied. The fact that offering parties only recently discovered evidence does not establish that it was not previously available, nor that it could not have been discovered with the exercise of reasonable diligence, as required by PERB Regulation 32410.
1466-E	Diane Underhill v. California Teachers Association	The Board remanded the charge to the Office of the General Counsel for further investigation and processing. The charge alleged that the union breached its duty of fair representation when it failed to assist an employee in filing a grievance against her employer.	Remanded. Although unfair practice charge was filed by the employee's attorney and she also filed a notice of appearance form designating the attorney as her representative, the Board agent failed to serve a copy of the warning letter on the attorney. Because this omission denied the charging party the opportunity to file an amended charge, the Board exercised its discretion under EERA section 3541.3 to remand the case for further investigation and to permit the charging party to file an amended unfair practice charge.

**2001-2002 BOARD DECISIONS**

<b><u>DECISION NO.</u></b>	<b><u>CASE NAME</u></b>	<b><u>DESCRIPTION</u></b>	<b><u>DISPOSITION</u></b>
1467-E	American Federation of Teachers Guild, California Federation of Teachers, Local 1931 v. San Diego Community College District	The Board dismissed the unfair practice charge. The charge alleged that the employer violated the EERA by prohibiting use of its employee mail system and other equipment for the distribution of political flyers.	Dismissed. Education Code section 7054 clearly prohibits the use of school district or community college district funds, services, supplies or equipment for the purpose of urging the support or defeat of any ballot measure or candidate. This language removes the policies at issue from the scope of representation.
1468-E	California School Employees Association and its Chapter #106 v. Desert Sands Unified School District	The Board found that the charging party has stated a prima facie violation of the EERA and remanded the case to the General Counsel's office for issuance of a complaint. The charge alleged that the employer violated the EERA by unilaterally transferring bargaining unit work when it transferred the duty of video camera installation to employees in a different classification within the same bargaining unit.	Remanded for issuance of a complaint. Transfer of bargaining unit work between classifications is negotiable, both as to the decision and its effects, regardless of whether the transfer is to a current or to a new classification. This decision meets the Anaheim three-part test of negotiability.

**2001-2002 BOARD DECISIONS**

<b><u>DECISION NO.</u></b>	<b><u>CASE NAME</u></b>	<b><u>DESCRIPTION</u></b>	<b><u>DISPOSITION</u></b>
1469-E	United Teachers of Los Angeles v. Los Angeles Unified School District	The Board found that the employer violated the EERA by causing an employee of LA's BEST, an afterschool enrichment program for certain students, to be terminated from her employment with LA's BEST because of her protected activities. There was a dissent.	Violation found. The Board found evidence of disparate treatment of the charging party; proximity of time between protected activities and harm; inconsistent, contradictory or vague employer explanations; and departure from established procedures or standards.
1470-H	California Faculty Association v. Trustees of the California State University	The Board dismissed the unfair practice charge, which alleged that the employer made a unilateral change when it implemented a pay increase for employees under the provisions of a collective bargaining agreement then being bargained for in reopener negotiations.	Dismissed. Reopened provisions are not effectively terminated by reopening, but rather the status quo prevails where the parties had previously agreed that the contract terms could not be deleted except by mutual consent. Thus, the employer's reinstatement of the reopened clauses did not constitute a unilateral change, but merely an assertion that the status quo between the parties remained in effect.

**2001-2002 BOARD DECISIONS**

<b><u>DECISION NO.</u></b>	<b><u>CASE NAME</u></b>	<b><u>DESCRIPTION</u></b>	<b><u>DISPOSITION</u></b>
1471-E	California School Employees Association, State Center Chapter 379 v. State Center Community College District	The Board found that the employer violated the EERA by refusing to provide certain requested information to the union. There was a dissent.	The Board found that the employers withholding of unit members' home telephone numbers from the union violated EERA. Expression of a desire to withhold information from a District home directory is insufficient to extinguish the union's right to the information.
1471a-E	California School Employees Association State Center Chapter 379 v. State Center Community College District	The Board denied the employer's request for reconsideration of PERB Decision No. 1471, in which the Board found that the employer violated the EERA by refusing to provide certain requested information to the union.	Denied. Although the employer claimed that the underlying decision contained prejudicial errors of fact, the Board disagreed and found that the request merely reargues the case and therefore fails to demonstrate grounds sufficient to comply with PERB Regulation 32410(a).

## 2001-2002 BOARD DECISIONS

<u>DECISION NO.</u>	<u>CASE NAME</u>	<u>DESCRIPTION</u>	<u>DISPOSITION</u>
1472-E	George R. Gerber, Jr., v. California School Employees Association, Chapter 258	The Board found that the union violated the EERA when it deducted agency fees from an employee's paycheck without proper notice. The Board denied the employee's request for an increased interest award and his request for attorney's fees and costs.	<p>Violation found. Where monies were improperly deducted from employee's paychecks in two consecutive months, and were not returned to the employee by the union until some eleven weeks after the first deduction and almost seven weeks after the second deduction, it is an unfair practice, without regard to whether the violation was inadvertent.</p> <p>The Board denied the employee's request for an increased interest award because the purpose of an interest award is to make an aggrieved party whole. The remedy ordered by the Board accomplishes this goal. Also, the Board denied the employee's request for attorney's fees and costs because PERB awards such costs only after a finding of conduct that is without arguable merit, frivolous, vexatious, dilatory, pursued in bad faith or otherwise an abuse of process. No such evidence was found here.</p>

**2001-2002 BOARD DECISIONS**

<b><u>DECISION NO.</u></b>	<b><u>CASE NAME</u></b>	<b><u>DESCRIPTION</u></b>	<b><u>DISPOSITION</u></b>
1473-S	California Union of Safety Employees v. State of California (Department of Food and Agriculture)	The Board remanded the case to the General Counsel's office for further investigation and processing, having determined that the charge should not be dismissed and deferred to the grievance machinery contained in the parties' collective bargaining agreement.	The Board found that EERA section 3541.5 essentially codified the NLRB's pre-arbitration deferral policy overruling <u>Lake Elsinore</u> . As the Board agent dismissed the charge based exclusively on <u>Lake Elsinore</u> , the Board remanded the case for further investigation and processing.
1474-M	Charles Attard v. International Association of Machinists	The Board dismissed the charge, which alleged that the union violated the Meyers-Milias-Brown Act by failing to properly represent an employee in violation of the union's duty of fair representation.	Dismissed. The Board adopted federal precedent, also used in cases arising under other statutes administered by the Board, for MMBA duty of fair representation cases. Under this standard, the duty of fair representation is not breached by a refusal to pursue a grievance if a union has made an honest, reasonable determination that the grievance lacks merit.

**2001-2002 BOARD DECISIONS**

<b><u>DECISION NO.</u></b>	<b><u>CASE NAME</u></b>	<b><u>DESCRIPTION</u></b>	<b><u>DISPOSITION</u></b>
1475-E	Mary Thorpe & Long Beach Council of Classified Employees, AFT Local 6108 v. Long Beach Community College District	The Board dismissed the unfair practice charge, in which the employee and employee organization alleged that the employer violated the EERA by refusing to arbitrate the employee's grievance.	Dismissed. As the timeliness of the charge is not established, the Board's inquiry into whether the charge states a prima facie case ends.
1476-E	Mary Thorpe & Long Beach Council of Classified Employees, AFT Local 6108 v. California School Employees Association and Its Chapter 8	The Board dismissed the unfair practice charge, in which the employee and new exclusive representative alleged that the former exclusive representative violated the EERA by refusing to pursue the employee's grievance to arbitration.	Dismissed. The charging party's allegations are dismissed because she failed to demonstrate that the charge is timely filed. The new exclusive representative's allegations are dismissed because that organization does not have standing to allege a violation of the duty of fair representation.
1477-S	California Union of Safety Employees v. State of California (Department of Mental Health)	The Board remanded the case to the General Counsel's office for further investigation and processing, having determined that the charge should not be dismissed and deferred to the grievance machinery contained in the parties' collective bargaining agreement.	As the Board recently returned to its prior pre-arbitration deferral policy, this charge must be remanded for further investigation and processing.

## 2001-2002 BOARD DECISIONS

<u>DECISION NO.</u>	<u>CASE NAME</u>	<u>DESCRIPTION</u>	<u>DISPOSITION</u>
1478-H	Jeffrey Alan Smith v. Regents of the University of California	The Board dismissed the unfair practice charge. The charge alleged that the university violated HEERA by refusing to accept into evidence, in a contractual grievance proceeding, records obtained through settlement of a previous PERB unfair practice charge.	Dismissed. Charging party's contention that a settlement agreement in a different case required the employer to consider certain evidence in a grievance proceeding is rejected. Charging party's remaining claim against the employer may constitute a violation of the parties' contractual grievance procedure, but does not constitute a prima facie violation of HEERA.
1479-S	Jim Hard, Cathy Hackett, Ron Landingham, Marc Bautista, Adrienne Suffin & Walter Rice v. California State Employees Association	The Board reversed the proposed decision of the ALJ. The Board held that it had jurisdiction to determine the reasonableness of CSEA's summary suspension procedures and that its summary suspension of the charging party interfered with his protected rights in violation of the Dills Act. The Board further held that charging party did not demonstrate the effect of his protected activities on the employer-employee relationship to show retaliation under section 3519.5(b) and so dismissed that charge against CSEA.	This decision confirms the Board's authority to determine the reasonableness of an employee organization's rules regarding membership requirements and the dismissal of members under section 3515.5. It distinguishes <u>California State Employees Association (Hackett)</u> (1993) PERB Decision No. 979-S in that there was no immediate threat or emergency to warrant CSEA's invocation of its summary suspension procedures. The Board also held that the charging party did not show the impact of its activities on the employer-employee relationship to support a finding of protected activity.



**2001-2002 BOARD DECISIONS**

<b><u>DECISION NO.</u></b>	<b><u>CASE NAME</u></b>	<b><u>DESCRIPTION</u></b>	<b><u>DISPOSITION</u></b>
1480-S	Carlos A. Veltruski v. State of California (Unemployment Insurance Appeals Board)	The charge alleged that the State of California (Unemployment Insurance Appeals Board, Department of Fair Employment and Housing, Department of Motor Vehicles) violated section 3519(a) of the Ralph C. Dills Act by discriminating against him for engaging in protected activities and refusing to consider his application for employment on its merits. The Board agent correctly found that the charging party failed to allege that named individuals had hiring authority, that he was subjected to adverse action attributable to the employer, or that there was any nexus between any arguable protected activity and any actions by the state.	The Board affirmed dismissal of the unfair practice charge for failure to state a prima facie case of discrimination for protected activity under the Dills Act.

**2001-2002 BOARD DECISIONS**

<b><u>DECISION NO.</u></b>	<b><u>CASE NAME</u></b>	<b><u>DESCRIPTION</u></b>	<b><u>DISPOSITION</u></b>
1481	Berkeley Federation of Teachers Local 1078 v. Berkeley Unified School District	The charge alleged that the Berkeley Unified School District violated section 3543.5(a), (b) and (c) of the Educational Employment Relations Act (EERA) by refusing to allow a union representative to attend a meeting between three teachers and their supervisor.	Dismissal of the unfair practice charge was affirmed.  Board agent properly found that “Weingarten” rights not implicated by employer’s refusal to allow presence of union representative at meeting requested by employees, where there were no allegations indicating a disciplinary purpose, or existence of “highly unusual circumstances;” Employer did not unlawfully bypass exclusive representative since direct meetings with employees to implement previously negotiated matters is not unlawful and no showing was made that subject within the scope of bargaining was discussed; no failure to bargain in good faith, since there was no allegation that parties requested to negotiate regarding a matter within the scope of bargaining.

**2001-2002 BOARD DECISIONS**

<b><u>DECISION NO.</u></b>	<b><u>CASE NAME</u></b>	<b><u>DESCRIPTION</u></b>	<b><u>DISPOSITION</u></b>
1482-H	Richard Malamud v. California Faculty Association	The Board dismissed the unfair practice charge. The charge alleged that the Association violated HEERA section 3583.5 by collecting non-chargeable agency fees. Malamud contended that dues should be based upon actual expenditures and not include CFA affiliate expenditures and or be calculated at a percentage of membership dues. The same issues were submitted to arbitration; the arbitrator rejected Malamud's claims. The Board agent correctly found that the arbitrator's decision was not repugnant to HEERA with regard to either of Malamud's contentions.	The Board will defer to an arbitrator's ruling that is not repugnant to HEERA in regard to computation of agency fees.
1483-S	California State Employees Association, Local 1000, SEIU, AFL-CIO, CLC v. State of California (Department of Youth Authority)	The charge alleged that the State of California (Department of Youth Authority) violated the Dills Act by failing to bargain over the decision and impact of changes in teacher assignments.	As the Board recently returned to its prior pre-arbitration deferral policy, this charge must be remanded for further investigation and processing.

**2001-2002 BOARD DECISIONS**

<b><u>DECISION NO.</u></b>	<b><u>CASE NAME</u></b>	<b><u>DESCRIPTION</u></b>	<b><u>DISPOSITION</u></b>
1484-S	Carlos A. Veltruski v. State of California	The charge alleged that various departments of the State of California violated the Dills Act by denying Veltruski employment because of his protected conduct.	Dismissed. Charging party failed to establish he was an employee or bona fide applicant covered by the Dills Act.
1485-M	Carlos A. Veltruski v. City of Huntington Park	The charge alleged that the City of Huntington Park violated the MMBA by refusing to consider Veltruski's employment application on its merits.	Dismissed. Charging party failed to show how at time an individual allegedly took an adverse action against him, that the individual was acting in a capacity as an agent of the city.
1486	Nancy Louise Vincelet v. Lodi Unified School District	The charge alleged that the Lodi Unified School District violated EERA by denying the charging party due process in disciplinary proceedings.	Dismissal of the unfair practice charge was affirmed.  The Board found that most of the conduct underlying the unfair practice charge occurred outside EERA's six-month statute of limitations and that the alleged conduct occurring within the statutory period failed to state a prima facie case of violation of EERA.

**2001-2002 BOARD DECISIONS**

<b><u>DECISION NO.</u></b>	<b><u>CASE NAME</u></b>	<b><u>DESCRIPTION</u></b>	<b><u>DISPOSITION</u></b>
1487	Nancy Louise Vincelet v. California School Employees Association and its Chapter 77	The charge alleged that the California School Employees Association and its Chapter 77 violated EERA by denying Vincelet “due process” when it allegedly prevented her from receiving a fair hearing before an administrative law judge from the Office of Administrative Hearings and failed to inform her of the existence of PERB so that she could meet EERA’s six-month filing deadline.	Dismissal of the charge was affirmed.  The Board agent correctly found that most of the conduct underlying the unfair practice charge occurred outside EERA’s six-month limitations period and that the alleged conduct occurring within the statutory period failed to state a prima facie case of violation of EERA.

**2001-2002 BOARD DECISIONS****INJUNCTIVE RELIEF REQUESTS**

<b><u>DECISION NO.</u></b>	<b><u>CASE NAME</u></b>	<b><u>DESCRIPTION</u></b>	<b><u>DISPOSITION</u></b>
I.R. 55-M	Union of American Physicians & Dentists v. County of San Joaquin (Health Care Services)	The Board granted the request for injunctive relief. The underlying unfair practice charge alleged the employer placed an employee on administrative leave to interfere with the union's organizing campaign. There was a dissent.	The Board found reasonable cause exists to believe an unfair practice has been committed by discriminating against an employee because of his union activity and interfering with employee rights by suspending a union leader and ordering him not to talk to fellow employees during a union election. The Board found seeking injunctive relief was just and proper in that the purposes of the Meyers-Millias-Brown Act (MMBA) would be frustrated absent injunctive relief where Board order would be unable to remedy the serious impact of the suspension of the primary union supporter during the election balloting.

**2001-2002 BOARD DECISIONS****INJUNCTIVE RELIEF REQUESTS**

<b><u>DECISION NO.</u></b>	<b><u>CASE NAME</u></b>	<b><u>DESCRIPTION</u></b>	<b><u>DISPOSITION</u></b>
I.R. 420	California State Employees Association v. State of California (Department of Consumer Affairs)	CSEA sought to enjoin the State from implementing a fingerprinting policy for employees who have access to Criminal Offender Record Information.	Request denied.
I.R. 421	Union of American Physicians & Dentists v. County of San Joaquin (Health Care Services)	UAPD sought an injunction requiring the County to restore employment and access to the work site to the union's lead supporter during the representation election ongoing at this time.	Request granted. (I.R. 55-M)
I.R. 422	AFT Local 1931 v. San Diego Community College District	The Board denied the request for injunctive relief, in which the union sought to require the employer to bargain immediately over terms and conditions of employment for continuing education counselors.	Request denied.
I.R. 423	California Union of Safety Employees v. State of California (Department of Personnel Administration)	The union sought to enjoin the employer from disseminating bargaining information to unit members prior to either agreement or impasse.	Request withdrawn.

**2001-2002 BOARD DECISIONS****INJUNCTIVE RELIEF REQUESTS**

<b><u>DECISION NO.</u></b>	<b><u>CASE NAME</u></b>	<b><u>DESCRIPTION</u></b>	<b><u>DISPOSITION</u></b>
I.R. 424	California School Employees Association & its Chapter 129 v. Santa Maria-Bonita School District	The union sought to require the employer to bargain with the union-appointed Labor Relations Representative.	Request withdrawn.
I.R. 425	Maria Garnica v. City of Ontario	The Board denied the request for injunctive relief, in which an employee sought to enjoin the employer from allegedly retaliating against her for her participation in protected activities.	Request denied.
I.R. 426	California State Employees Association v. State of California (Department of Youth Authority)	CSEA sought to enjoin the State from sending teachers into CYA living quarters.	Request withdrawn.
I.R. 427	Stockton City Employees Association v. City of Stockton	The Board denied the request for injunctive relief, in which the Association sought to enjoin the City from issuing a Request for Proposal for privatization of its water utilities prior to exhaustion of the meet and confer process on the subject of privatization.	Request denied.



**2001-2002 BOARD DECISIONS****INJUNCTIVE RELIEF REQUESTS**

<b><u>DECISION NO.</u></b>	<b><u>CASE NAME</u></b>	<b><u>DESCRIPTION</u></b>	<b><u>DISPOSITION</u></b>
I.R. 428	American Federation of State, County & Municipal Employees v. County of Del Norte	AFSCME sought to enjoin the County from implementing unilateral changes to employees' work week and health benefit contributions.	Request withdrawn.
I.R. 429	Rachel Faith Titus v. Santa Monica-Malibu Unified School District	Ms. Titus sought to enjoin the District from violating her <u>Weingarten</u> rights; taking reprisals against her; empowering Mr. Runyon to act as the District's agent unless and until his supervisory authority is clearly established; and seeks to require that all documents of reprimand issued by Mr. Runyon against her be removed from her personnel file and destroyed.	Request withdrawn.
I.R. 430	Part-Time Faculty United, AFT v. Santa Clarita Community College District (College of the Canyons)	The Board granted the request for injunctive relief, in which the AFT sought continuing to recognize COCFA and give effect to an agreement with the COCFA which would nullify AFT's organizing efforts on behalf of part-time faculty.	Request granted.

**2001-2002 BOARD DECISIONS****INJUNCTIVE RELIEF REQUESTS**

<b><u>DECISION NO.</u></b>	<b><u>CASE NAME</u></b>	<b><u>DESCRIPTION</u></b>	<b><u>DISPOSITION</u></b>
I.R. 431	Fremont Unified School District v. Kathleen M. Turney	The Board denied the request for injunctive relief, in which the District asked PERB to enjoin Ms. Turney from threatening and harassing a fellow District employee regarding her protected right to testify in a PERB proceeding.	Request denied.
I.R. 432	John Douglas Barker and David Osuna v. California State Employees Association	Messrs. Barker and Osuna sought to enjoin CSEA from removing them from their elected positions as chairpersons of Bargaining Units 14 and 20 during a critical time in contract negotiations.	Request withdrawn.
I.R. 433	Los Angeles School Police Officers Association v. Los Angeles Unified School District	The Association sought to enjoin the District from implementing changes to payroll and time reporting policies prior to negotiating the issue.	Request withdrawn.

**2001-2002 BOARD DECISIONS****INJUNCTIVE RELIEF REQUESTS**

<b><u>DECISION NO.</u></b>	<b><u>CASE NAME</u></b>	<b><u>DESCRIPTION</u></b>	<b><u>DISPOSITION</u></b>
I.R. 434	Part-Time Faculty United, AFT v. Victor Valley Community College District	The AFT sought to enjoin the District from continuing to recognize CTA and give effect to an agreement with the CTA which would nullify AFT's organizing efforts on behalf of part-time faculty.	Request withdrawn.
I.R. 435	Supervisory Peace Officers' Association v. Housing Authority of the City of Los Angeles	The Association sought to enjoin the Housing Authority from implementing layoffs prior to meeting and conferring with the Association.	Request withdrawn.
I.R. 436	California Nurses Association v. Palomar Pomerado Health	The Board denied the request for injunctive relief, in which CNA sought to enjoin the employer from interfering with CNA's organizing efforts.	Request denied.
I.R. 437	Part-Time Faculty United, AFT v. Victor Valley Community College District	The Board granted the request for injunctive relief, in which the AFT sought to enjoin the District from continuing to recognize CTA and give effect to an agreement with the CTA which would nullify AFT's organizing efforts on behalf of part-time faculty.	Request granted.

**2001-2002 BOARD DECISIONS****INJUNCTIVE RELIEF REQUESTS**

<b><u>DECISION NO.</u></b>	<b><u>CASE NAME</u></b>	<b><u>DESCRIPTION</u></b>	<b><u>DISPOSITION</u></b>
I.R. 438	Regents of the University of California v. California Nurses Association	The Regents sought an injunction to prohibit the California Nurses Association from going on strike.	Request withdrawn.
I.R. 439	California Nurses Association v. Antelope Valley Health Care District	The Board denied the request for injunctive relief, in which CNA sought to enjoin the Health Care District from obstructing and interfering with the CNA's organizing campaign and petition for recognition process.	Request denied.
I.R. 440	Jim Hard, Cathy Hackett, Larry Perkins and Daniel Carranza v. California State Employees Association	The Board granted the request for injunctive relief, in which charging parties sought to enjoin CStEA from suspending them from their elected offices.	Request granted.
I.R. 441	Professional Engineers in California Government v. State of California (Department of Personnel Administration)	The Board denied the request for injunctive relief, in which PECG sought to enjoin the State from reneging on agreements developed in negotiations with PECG.	Request denied.

**2001-2002 BOARD DECISIONS****INJUNCTIVE RELIEF REQUESTS**

<b><u>DECISION NO.</u></b>	<b><u>CASE NAME</u></b>	<b><u>DESCRIPTION</u></b>	<b><u>DISPOSITION</u></b>
I.R. 442	Public Employees Union Local One v. West Contra Costa Unified School District	The Board denied the request for injunctive relief, in which PEU Local One sought to enjoin the District from interfering with its right to collect union dues.	Request denied.
I.R. 443	United Teachers of Los Angeles v. Los Angeles Unified School District	The Board denied the request for injunctive relief, in which UTLA sought to enjoin the District from unilaterally implementing class size increases without providing the union with notice and an opportunity to bargain.	Request denied.

**2001-2002 BOARD DECISIONS****JUDICIAL REVIEW REQUESTS**

<b><u>DECISION NO.</u></b>	<b><u>CASE NAME</u></b>	<b><u>DESCRIPTION</u></b>	<b><u>DISPOSITION</u></b>
J.R.-20	San Diego Community College District and San Diego Adult Educators Chapter of Local 4289, CFT, AFT, AFL-CIO and American Federation of Teachers Guild, Local 1931, CFT, AFT, AFL-CIO	The Board denied the employer's request that the Board join in a request for judicial review of PERB Decision No. 1445-E, in which the Board granted a unit modification petition jointly filed by two exclusive representatives.	Denied. The Board has discretion under PERB Regulation 32500(c) to determine whether a case is one of special importance meriting judicial review of a unit determination. The Board declined to exercise such discretion here because there was no evidence that the case presented a novel issue; that it primarily involved construction of a statutory provision unique to EERA; nor that the issue was likely to arise frequently.

**2001-2002 BOARD DECISIONS****ADMINISTRATIVE DETERMINATIONS**

<b><u>DECISION NO.</u></b>	<b><u>CASE NAME</u></b>	<b><u>DESCRIPTION</u></b>	<b><u>DISPOSITION</u></b>
Ad-310	Poway Unified School District and Poway Council of Classified Employees, CFT/AFT, AFL-CIO and California School Employees and its Poway Chapter 80	The Board dismissed election objections.	Dismissed. The grounds offered for setting aside election results in a decertification election were insufficient.
Ad-311	San Diego Community College District and San Diego Adult Educators Chapter of Local 4289, CFT, AFT, AFL-CIO and American Federation of Teachers Guild, Local 1931, CFT, AFT, AFL-CIO	The Board excused a late filed request for judicial review and denied a request for a stay of the underlying decision pending judicial review.	Accepted late filed request for judicial review as timely filed. Good cause to excuse a late filing exists where the request was mailed to the wrong PERB office by clerical mistake.  Denied request to stay underlying PERB decision pending judicial review. The Board declined to exercise its discretion to grant a stay, because the issues raised in the stay request will be addressed through another pending unfair practice case.

**2001-2002 BOARD DECISIONS****ADMINISTRATIVE DETERMINATIONS**

<b><u>DECISION NO.</u></b>	<b><u>CASE NAME</u></b>	<b><u>DESCRIPTION</u></b>	<b><u>DISPOSITION</u></b>
Ad-312	Mario Mercado and Candice Bloch v. Hart District Teachers Association	The Board denied a request to accept a late filed response to a request for reconsideration.	Denied. Request for review of late filed response became moot as the Board had already considered the underlying request for reconsideration and denied it.
Ad-313	Janice M. Abner v. Compton Unified School District	The Board denied a request to accept a late filed appeal.	Denied. No good cause found to excuse the late filing, as there was no evidence that the party made a conscientious effort to comply with the filing deadline.
Ad-314-S	Carlos A. Veltruski v. State of California (Unemployment Insurance Appeals Board, Department of Industrial Relations and Employment Development Department)	The charging party filed, past the deadline, a request for extension of time to file an appeal of the partial dismissal of his unfair practice charge. PERB's appeals office denied his request as untimely. The charging party then filed a late appeal, which the appeals office deemed an appeal of its earlier denial of his late request for an extension of time.	The Board declined to accept the untimely appeal. The charging party's documents did not address the denial of his request for extension of time. Accordingly, the Board found there was not good cause to grant relief from the denial of the request for extension of time. The Board also found there was not good cause to excuse the late filing of the charging party's appeal, as no argument for such excuse was presented.



**2001-2002 BOARD DECISIONS**

**ADMINISTRATIVE DETERMINATIONS**

<b><u>DECISION NO.</u></b>	<b><u>CASE NAME</u></b>	<b><u>DESCRIPTION</u></b>	<b><u>DISPOSITION</u></b>
Ad-315	Salinas Union High School District and Salinas Valley Federation of Teachers, Local 1020	The Board granted a union's unit modification petition seeking to add daily long-term substitute teachers to the certificated unit it represents.	Proof of majority support indicated by authorization cards is sufficient to certify the new unit through a unit modification proceeding without an election where requisite community of interest is not contested and balancing the equities dictates such a conclusion. Based on fundamental differences between the NLRA and EERA, the Board declines to apply NLRB unit clarification precedent which would bar the granting of a unit modification without an election.

**2001-2002 LITIGATION ACTIVITY**

Public Employment Relations Board v. Santa Clarita Community College District (College of the Canyons) Docket No. 02-I-0327 Los Angeles Superior Court, Case No. BC 268742 (IR No. 430) [Unfair Practice Charge No. LA-CE-4357-E]. Issue: The AFT requests PERB to enjoin the District from continuing to recognize COCFA and give effect to an agreement with the COCFA which would nullify AFT's organizing efforts on behalf of part-time faculty. On 2/26/2002, PERB appeared before the Court and filed its Ex Parte Application for Temporary Restraining Order/Order to Show Cause Re: Preliminary Injunction; Declaration of Notice; Summons; Complaint for Injunctive Relief; Memorandum of Ps & As in Support; and [Proposed] Temporary Restraining Order. The District filed its Opposition to Ex Parte Application for Temporary Restraining Order/Order to Show Cause Re Preliminary Injunction; Declaration of Phillip Hartley; and Declaration of Mary Dowell in Opposition on 2/26/2002. CTA filed Declaration of Lea Templar; and Declaration of Michael Hersh in Support of Motion to Join COCFA as Defendant on 2/26/2002. On 2/26/2002, the Court issued an Order to Show Cause hearing for 3/20/2002 and a briefing schedule. PERB appeared before the Court and filed a Proposed Order on 3/20/2002. The Judge ordered the Parties to submit any objections to the proposed order not later than 3/21/2002. On 3/21/2002, the District and CTA each filed Objections to the Proposed Order. AFT filed its Response to the Objections of the District and CTA on 3/21/2002. The Court modified PERB's Proposed Order and signed it on 3/22/2002. PERB served a copy of the Order on all parties to the case and filed Proof of that Service with the Court on 3/29/2002. On 6/5/2002, the Court issued a Notice of Status Conference for 7/8/2002. PERB prepared and forwarded for signature a Stipulated Request to Take Status Conference Off Calendar on 6/17/2002. PERB filed the fully executed Stipulation on 6/28/2002.

Coachella Valley Mosquito & Vector Control District v. PERB/California School Employees Association Docket No. 02-O-0328, 4<sup>th</sup> District Court of Appeals, Case No. E031527 (Appealing Case INC 026814) [Unfair Practice Charge No. LA-CE-1-M]. Issue: Did the trial court err when it determined that PERB has jurisdiction over unfair practices under the MMBA which occurred more than six months prior to the filing of the charge and within a 3-year statutory limitation period as per Code of Civil Procedures section 338. Notice of Appeal filed by the District on 4/15/02. Notification of Filing received from the Court on 4/17/2002. On 6/21/2002, PERB received the transcript and notice to appellant requiring the filing of the opening brief by 7/19/2002. PERB's opposition would then be due 8/16/2002. The District filed a Stipulation Extending Time for Filing Briefs on 7/1/2002. Appellant's Opening Brief is now due on 9/19/02. PERB's response is due 90 days thereafter.

Public Employment Relations Board v. Victor Valley Community College District Docket No. 02-I-0329 San Bernardino County Superior Court, Victorville Branch, Case No. VCVVS 026871 (IR No. 437, Unfair Practice Charge No. LA-CE-4349-E). Issue: PERB seeks an injunction to keep the District from continuing to recognize CTA and give effect to an

agreement with the CTA which would nullify AFT's organizing efforts on behalf of part-time faculty. PERB filed its Summons, Complaint, Motion for Preliminary Injunction, Memorandum of Points and Authorities in Support and Declarations of R. Thompson and L. Chisholm on 5/10/2002. PERB appeared on 7/3/2002 for the Preliminary Injunction hearing. The District refused to agree that the matter be heard by the Commissioner assigned and the matter was reset for 7/10/2002. PERB appeared before the Court on 7/10/2002. After oral argument, the Court took the matter under submission.

Public Employment Relations Board v. California State Employees Association Docket No. 02-I-0330, Sacramento Superior Court Case No. 02A303845 IR No. 440 (SA-CO-249-S). Issue: PERB seeks to enjoin CSEA from suspending Jim Hard and Cathy Hackett from their elected offices. PERB filed its Summons; Complaint; Application for TRO, Memorandum of Ps & As; and Declarations in Support on 6/27/2002. PERB appeared before the Court on 6/28/2002. Hearing set for 7/8/2002. PERB filed Declarations of Ron Landingham and Marc Bautista and Second Declarations of Jim Hard and Cathy Hackett on 7/3/2002. CSEA filed its Opposition and Declaration of Harry Gibbons on 7/3/2002. PERB appeared before the Court on 7/8/2002. The Court issued the Preliminary Injunction and PERB filed Declaration of Personal Service of the Preliminary Injunction on 7/9/2002.

### **CLOSED CASES**

San Bernardino Professional Firefighters Union, Local 891, Association of Fire Fighters, AFL-CIO v. Superior Court of the State of California in and for the County of San Bernardino/Darrell Hess as Real Party in Interest. Docket No. 01-O-0324, Fourth District Court of Appeal, Division Two, Case No. E02987. Issue: Should PERB attempt to oust jurisdiction in an MMBA case properly filed in the Superior Court prior to 7/1/2001. The Union filed a Petition for Writ of Mandate and Stay Order on 7/12/2001. PERB prepared an Application to File as Amicus Curiae and Brief of Amicus Curiae. (Not filed due to Court's decision.) The Court denied the Petition on 7/17/2001.

Public Employment Relations Board v. County of San Joaquin (Health Care Services) Docket No. 01-I-0325. San Joaquin Superior Court, Case No. CV 014724. [IR No. 421] (Unfair Practice Charge No. SA-CE-6-M). Issue: UAPD seeks an injunction requiring the County to immediately restore employment and access to the work site to the union's lead supporter during the representation election ongoing at this time. PERB appeared and filed Application for Temporary Restraining Order; Complaint for Injunctive Relief with supporting Declarations; and Points and Authorities on 8/3/2001. Respondent filed its Brief in Opposition and supporting declarations on 8/7/2001. PERB appeared before the Court on 8/8/2001. The Court issued the TRO and set a hearing for 8/23/2001 on the Order to Show Cause. The underlying unfair practice charge settled and was withdrawn on 8/22/2001. PERB filed a Request for Dismissal with the Court on 9/12/2001. On 9/20/2001, PERB filed and served a Notice of Entry of Dismissal.

Coachella Valley Mosquito & Vector Control District v. PERB/California School Employees Association Docket No. 02-O-0324, Riverside Superior Court, Indio, Case INC 026814 [Unfair Practice Charge No. LA-CE-1-M]. Issue: Does PERB have jurisdiction over unfair practices under the MMBA which occurred prior to July 1, 2001 and more than six months prior to the filing of the charge? Coachella filed Ex Parte Notice, Application for alternative Writ and Request for Stay Order on 1/9/2002. (Hearing set for 1/11/2002.) PERB filed its Preliminary Opposition and Declarations of B. McMonigle and R. Smith by fax on 1/10/2002. PERB appeared before the Court on 1/11/2002. CSEA filed Declaration of S. Johnson and the Court set a hearing on the Order to Show Cause for 2/8/2002 which was then continued to 2/20/2002. PERB appeared before the Court on 2/20/2002. Judge Stafford denied the Petition from the bench.

Lucia Mar Unified School District v. PERB/California School Employees Association Docket No. 02-O-0325, California Supreme Court, Case S 103794 appealing Second District Court of Appeal, Division Six, Case No. B150510, PERB Decision No. 1440 [Unfair Practice Charge No. LA-CE-4194-E]. Issue: Did the Appellate Court err when it found that the District had violated EERA when it contracted out transportation services and terminated bargaining unit positions? Petition for Review filed on 1/17/2002. Letter to the Court in support of the District from the California School Boards Association filed on 1/18/2002. Letter to the Court in support of the District from Student Transportation of America, Inc. filed on 1/23/2002. Letter to the Court in support of the District from the California School Bus Contractors Association filed on 1/31/2002. PERB filed its Answer to Petition for Review and Request for Judicial Notice on 2/5/2002. CSEA filed its Answer to Petition for Review on 2/6/2002. The Supreme Court of California denied the Petition for Review on 2/27/2002.

Bay Area Air Quality Management District v. PERB/ Bay Area Air Quality Management District Employees Association Docket No. 02-O-0326, San Francisco Superior Court, Case No. CPF-02-500562 [Unfair Practice Charge No. SF-CE-1-M]. Does PERB have jurisdiction over unfair practices under the MMBA which occurred prior to July 1, 2001; and should a matter filed properly in the Superior Court prior to July 1, 2001, be adjudicated in that venue or be transferred to PERB for resolution? On 1/22/2002, PERB was notified of a hearing to be held 1/23/2002 on the District's Ex Parte Application for Writ of Prohibition. The Association filed its Preliminary Opposition on 1/23/2002. PERB appeared before the Court on 1/23/2002. The Court issued the Alternative Writ of Prohibition and set the matter for hearing on 2/14/2002. The District provided Notice of Ruling on the Application for Writ of Prohibition on 2/1/2002. PERB filed its Memorandum of Ps & As in Opposition to the Petition for Writ of Prohibition on 2/1/2002. The Association filed its Memorandum of Ps & As in Opposition to the Petition for Writ of Prohibition on 2/4/2002. The District filed its Reply to the Oppositions to Petition for Writ on 2/7/2002. On 2/7/2002, the Association filed a Stipulation requesting its Stay Motion in the original Superior court case be consolidated with this action and that they both be heard on 2/14/2002. PERB appeared before the Court on 2/28/2002. The Court ruled that PERB should proceed with the portions of its unfair practice complaint applying to matters which took place after the February 2000 Petition filed by the Association in that Court. The Court also ruled that if the Association chose to dismiss its February 2000 Petition, PERB could proceed with that portion of the case as well.

American Federation of Teachers Guild, Local 1931 v. San Diego Community College District (PERB Decision No. 1445-E) [LA-UM-649-E]. Issue: The AFT seeks court enforcement of PERB Decision No. 1445 which required the District's continuing education counselors be transferred to the college faculty unit. On 5/2/2002, the AFT served its Request for Enforcement on PERB. PERB issued notification of the filing and response instructions on 5/2/2002. The District filed its Response to Request for Enforcement on 5/6/2002. AFT filed Declaration of Jim Mahler in Support and further information on 5/6/2002. AFT filed a Supplemental Declarations on 5/7 and 8/2002. On 5/10/02, the Board determined not to seek judicial enforcement.

Academic Professionals of California v. Trustees of the California State University (PERB Order HO-U-525-H) [LA-CE-320-H]. Issue: APC seeks enforcement of PERB Order HO-U-525-H which included a requirement that CSU cease and desist from failing to provide seniority points lists to the APC. APC filed its Request for Enforcement on 4/5/2002. CSU filed its Response on 5/13/2002 and PERB denied the request on 6/24/2002.